UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,336	07/10/2003	Ernest W. Moody	MOODY 37	2735

24258 7590 04/05/2006

JOHN EDWARD ROETHEL
2290 S. JONES BLVD. #100
LAS VEGAS, NV 89146

EXAMINER	
PANDYA, SUNIT	
ART UNIT	**PAPER NUMBER**
3714	

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/617,336	MOODY, ERNEST W.	
	Examiner	Art Unit	
	Sunit Pandya	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 July 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ~~12/22/05~~ 10-22-03.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. The applicant claims priority to a Provisional application No. 60/319388, filed on July 10, 2002

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on 10/22/03 and 12/22/05 are acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97 & 1.98. Accordingly, the examiner has considered the information disclosure statement.

Oath/Declaration

3. Acknowledgement is made of applicant's Oath/Declaration meets standard required by 35 U.S.C 25 & 115.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 5, 7, 8, 12, 14 -18 are rejected under 35 U.S.C. 102(e) as being anticipated by Celona et al. US Patent Publication (2002/0155817).

Claims 1 & 8:Celona et al. discloses of a video poker game that provides at least two pay tables, wherein each tables has a different payout for the winning hand (par. 9). Celona also discloses designating pay tables to be used in the play of the video poker game (par. 18-26), as well as playing conventional video poker game and awarding the player when a winning hand is achieved (par. 18-19).

Claims 5 & 12: Celona et al. discloses pay table having different theoretical game return (par. 18-20).

Claims 7 & 14: Celona et al. disclose pay table having overall game return of less than 100% (par. 18-20). Celona et al. teaches the percentage to be 95%, 96%, and 98%, which weighted does average under 100%.

Claim 15: Celona et al. discloses of having a single pay table to be used for each of multiple hands (par. 18-25 teaches of different pay tables which could be used in the game).

Claim 16: Celona et al. discloses having a first pay table designated to be used for some of the multiple hands and a second pay table designated to be used for others (par 18-25 teaches of three different pay tables which are used for different multiple hands).

Claim 17: Celona et al. inherently discloses of multiple hands comprising of two or more hands and single pay table designated to be used with each of multiple hands (pars. 63-74).

Claim 18: Celona et al. inherently discloses of multiple hands wherein first pay table is designated to be associated with first of multiple hand and a second pay

table to be associated with second multiple table (par. 63-72). Celona et al. teaches of three pay tables that are associated with three different hands, inherently this does equate to multiple hands and multiple play tables associated with the hands.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 2, 3, 6, 9, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Celona et al. as mentioned above.

Claims 2, 3, 9 & 10: Celona et al. discloses displaying the actual play table to the players participating in the game (par. 40). However Celona et al. fails to teach each pay table having associated with a color and displaying the color to the player. At the time the invention was made, it would have been obvious matter of design choice to a person of ordinarily skill in the art, to have associated colors with pay tables and display colors to the players rather than the actual pay table, because the applicant has not disclosed that displaying colors associated with the pay table rather then the pay table itself, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinarily skill in the art, furthermore, would have expected applicant's inventions to perform equally well while displaying the actual pay tables rather than colors associated with them. Therefore it would have been an obvious matter of design

choice to modify Celona et al. to obtain the invention as specified in claims 2, 3, 9 and 10.

Claims 6 & 13: Celona et al. teaches each table having different pay-back percentage, example 95%, 96%, 98%, etc. wherein the percentage could be changed easily to exceed 100%. However Celona et al. does not clearly teach of a pay-table having pay back percentage of over 100%. This would add excitement to the game by providing greater rewards, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify pay tables to include one of the pay table to exceed pay back percentage of 100%, to add excitement to the game by providing greater rewards.

8. Claims 4 & 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Celona et al. as applied to claims above, and further in view of Ladner (US Patent 6,663,487).

Claims 4 & 11: Celona et al. discloses of a video poker game, which provides multiple pay tables, wherein each tables has a different payout for the winning hand (par. 9). However Celona et al. does not disclose of randomly selecting the designated pay table. Ladner teaches of the processor randomly selecting the pay table from the data sets representing the pay tables stored at the data structure (col. 3: 22-32). This adds excitement to the game. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify video poker machine

excitement of the game in that the player would not know, prior to selection of the pay table, what the payout will be for a winning combination.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see the attached notice of references cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunit Pandya whose telephone number is (571) 272-2823. The examiner can normally be reached on M - F: 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Jones can be reached on (571) 272-4438. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SP

CORBETT B. COBURN
PRIMARY EXAMINER